

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USDC Docket Number : 05-cr-10120

United States of America

v.

Yohan A. Germosen

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**CLERK'S CERTIFICATE**

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-37

and contained in 1 Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 2/9/2007.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on February 12, 2007.

By:



Receipt of the documents in the above entitled case is hereby acknowledged this date: 2/13/07.

R. Barchard  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CRIMINAL DOCKET FOR CASE #: 1:05-cr-10120-NG-ALL**

Case title: USA v. Germosen  
Magistrate judge case number: 1:05-mj-00413-RBC

Date Filed: 05/05/2005

Assigned to: Judge Nancy Gertner

**Defendant**

**Yohan A Germosen (1)**  
*TERMINATED: 01/19/2007*

represented by **John H. Molloy**  
Law Offices of John H. Molloy  
385 Broadway  
Suite 402  
Revere, MA 01887  
781-284-9934  
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Email: jhmesq40@hotmail.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Retained*

**Pending Counts**

21:963 Conspiracy to Unlawfully  
Import Heroin into the U.S. from a  
Place outside, to wit, the Dominican  
Republic  
(1)

21:952(a), 960 Unlawful Importation of  
Heroin Into the U.S. from a Place  
outside thereof, to wit, the Dominican  
Republic  
(2)

**Disposition**

2 Years Probation, \$200 Spec  
Assessment, 6 Months Home Detention  
w/out electronic monitoring.

2 Years Probation, \$200 Spec  
Assessment, 6 Months Home Detention  
w/out electronic monitoring.

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

21:952A=CI.F, Defendant did unlawfully import into the United States from a place outside there of, to wit the Dominican Republic, Heroin, a Schedule I controlled substance.

**Disposition**




Dft sworn, Plea accepted, court departs to probation. Sentence imposed: 2 Years Probation, NO Fine, \$200 Spec Assessment, 6 Months Home Detention w/out electronic monitoring. Spec Cond of Prob: no firearm, community service (amt of time to be determined by probation) No Drug testing; No DNA Sampling; No Victim Impact; Judge to issue a decision on her findings, Jgm will not enter until decision is issued, court adjourned.

**Plaintiff**

USA












represented by **Lisa M. Asiaf**














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Major Crimes Unit  
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Boston, MA 02210  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/10/2005		Judge Robert B. Collings : Electronic ORDER entered granting in part and denying in part <u>2</u> Motion to Seal as to Yohan A Germosen (1). "ALLOWED to 11:00 AM on 3/14/2005." (Russo, Noreen) [1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/10/2005	 <u>1</u>	COMPLAINT as to Yohan A Germosen (1) with Affidavit of Special Agent Peter A. Darling. (Russo, Noreen) . [1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/10/2005	 <u>2</u>	Government's MOTION to Seal as to Yohan A Germosen.(Russo, Noreen) . [1:05-mj-00413-RBC] (Entered: 03/14/2005)

03/10/2005	●	Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Initial Appearance as to Yohan A Germosen held on 3/10/2005. Lisa Asiaf for Gov't, Ed. Hayden with Deft, Pretrial Services. Max Penalties, charges. and rights read to Deft. Deft indicates he is able to afford his own attorney. Gov't moves for 3 day continuance and Preliminary Exam / Detention Hearing is set for Monday, March 14, 2005 @ 11:00 AM. (Digital Recording.) (Russo, Noreen) [1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/14/2005	●	Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Detention Hearing as to Yohan A Germosen held on 3/14/2005, Preliminary Examination as to Yohan A Germosen held on 3/14/2005. Lisa Asaif for Gov't, J. Malloy for Deft. Pretrial Services. Gov't and Deft agree to waive probable cause hearing and release with conditions. Deft signs waiver form and indicates it is his wish to waive a preliminary examination. Court explains that a pretrial services report will have to be done and if deft wants to put property up he will have to return with a certificate of good title, a current appraisal, or if the amount the property is assessed shows 50,000.00 in equity in the property the court will accept the assessed valuation. Court to recess until 3:15 PM so pretrial report and real estate documentation can be prepared. (Digital Recording.) (Russo, Noreen) [1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/14/2005	●3	WAIVER of Preliminary Examination or Hearing by Yohan A Germosen (Russo, Noreen). [1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/14/2005	●4	NOTICE OF ATTORNEY APPEARANCE: John H. Molloy appearing for Yohan A Germosen (Russo, Noreen) [1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/14/2005	●	Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Con't Detention Hearing as to Yohan A Germosen held on 3/14/2005. Gov't doesn't object to Pretrial Services rec. Court sets conditions of release. Deft must record Mtg. by cob Friday March 18, 2005. Court explains to Deft's mother consequences of the Def's failure to appear and she states she understands and is willing to put up her real estate. (Digital Recording.) (Russo, Noreen)[1:05-mj-00413-RBC] (Entered: 03/14/2005)
03/14/2005	●5	Appearance Bond Entered as to Yohan A Germosen in amount of \$ 50,000.00 (Secured). (Russo, Noreen) [1:05-mj-00413-RBC] (Entered: 03/17/2005)
03/14/2005	●6	Judge Robert B. Collings : ORDER entered. ORDER Setting Conditions of Release as to Yohan A Germosen (1) 50,000.00 (Russo, Noreen) [1:05-mj-00413-RBC] (Entered: 03/21/2005)
03/14/2005	●7	Real Property Documents Filed with the Clerk's Office as to Yohan A Germosen for property located at 114 Essex Street, Lynn, MA,. Documents surrendered: Deed, Certificate of Title, Mtg. Escrow Agreement, and Appraisal. (Attachments: # (1) # (2) # (3) # (4))(Russo,



		Noreen) [1:05-mj-00413-RBC] (Entered: 03/22/2005)
03/22/2005		RECORDED MORTGAGE as to Yohan A Germosen (Russo, Noreen) (Entered: 05/19/2005)
05/05/2005		INFORMATION (Felony) as to Yohan A Germosen (1) count(s) 1, 2. (Gawlik, Cathy) (Entered: 05/06/2005)
06/06/2005		Joint MOTION for Order <i>Setting Rule 11 Hearing &amp; Excluding Time</i> as to Yohan A Germosenby Yohan A Germosen, USA. (Asiaf, Lisa) (Entered: 06/06/2005)
06/07/2005		Judge Nancy Gertner : Electronic ORDER entered granting <u>10</u> Motion for Order to rule 11 hearing as to Yohan A Germosen (1)...Rule 11 Hearing set for 9/8/05 at 2:00pm. (Molloy, Maryellen) (Entered: 06/07/2005)
06/07/2005		ELECTRONIC NOTICE OF RULE 11 HEARING as to Yohan A Germosen: Change of Plea Hearing set for 9/8/2005 02:00 PM in Courtroom 2 before Judge Nancy Gertner. The parties are advised that the Court will not accept a plea agreement which requires the defendant to waive his/her appeal rights. The Court deems it the responsibility of the United States Attorney to advise the defendant whether there is a statutory requirement that the defendant be placed into custody of the United States Marshal immediately following the Court's entry of a guilty plea. It is ORDERED that a copy of the written plea agreement, together with notice whether detention may follow acceptance of the plea, shall be submitted to the Court by no later than 12:00 Noon the day before the scheduled Rule 11 hearing. (Molloy, Maryellen) (Entered: 06/07/2005)
09/06/2005		ELECTRONIC NOTICE RESCHEDULING RULE 11 HEARING as to Yohan A Germosen Change of Plea Hearing RESET FROM 9/8/05 TO 10/20/2005 02:30 PM in Courtroom 2 before Judge Nancy Gertner. Counsel shall file an order of excludable delay forthwith.(Molloy, Maryellen) (Entered: 09/06/2005)
09/06/2005		Assented to MOTION to Exclude <i>Time under Speedy Trial Act</i> as to Yohan A Germosenby USA. (Asiaf, Lisa) (Entered: 09/06/2005)
10/13/2005		ELECTRONIC NOTICE OF RESCHEDULING as to Yohan A Germosen Change of Plea Hearing RESET FROM 10/20/05 TO 11/7/2005 11:00 AM in Courtroom 2 before Nancy Gertner. (Molloy, Maryellen) (Entered: 10/13/2005)
11/04/2005		MOTION to Seal as to Yohan A Germosenby USA. (Filo, Jennifer) (Entered: 11/08/2005)
11/04/2005		SEALED NOTICE by USA as to Yohan A Germosen (Filo, Jennifer) (Entered: 11/08/2005)
11/07/2005		SEALED WAIVER OF INDICTMENT by Yohan A Germosen (Filo, Jennifer) (Entered: 11/08/2005)

11/07/2005	 <u>15</u>	SEALED PLEA AGREEMENT as to Yohan A Germosen (Filo, Jennifer) (Entered: 11/08/2005)
11/07/2005		Judge Nancy Gertner: Electronic ORDER entered granting <u>12</u> Motion to Seal as to Yohan A Germosen (1) (Filo, Jennifer) (Entered: 11/08/2005)
11/07/2005		Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner :Change of Plea Hearing as to Yohan A Germosen held on 11/7/2005, Plea entered by Yohan A Germosen (1) Guilty Count 1,2. GUILTY PLEA DEFERRED UNTIL TIME OF SENTENCING; Plea Agreement & waiver of indictment filed under seal; Amd Procedural Order issued; Sentencing set for 1/25/2006 02:30 PM in Courtroom 2 before Nancy Gertner, defendant released on same conditions, court adjourned. (Court Reporter O'Hara.) (Molloy, Maryellen) (Entered: 11/08/2005)
11/07/2005	 <u>16</u>	Judge Nancy Gertner : ORDER entered. AMENDED SENTENCING PROCEDURAL ORDER re sentencing hearing as to Yohan A Germosen: Sentencing set for 1/25/2006 02:30 PM in Courtroom 2 before Nancy Gertner. (Molloy, Maryellen) Additional attachment(s) added on 11/16/2005 (Filo, Jennifer). (Entered: 11/08/2005)
11/16/2005	 <u>17</u>	Notice of correction to docket made by Court staff. The image of document <u>16</u> has been attached to the entry and also to this entry. (Filo, Jennifer) (Entered: 11/16/2005)
01/04/2006		Judge Nancy Gertner : Electronic ORDER entered granting <u>11</u> Motion to Exclude Time under Speedy Trial Act as to Yohan A Germosen (1) time excluded to 1/25/06. (Molloy, Maryellen) (Entered: 01/04/2006)
01/06/2006	 <u>18</u>	Notice issued to Attorney John H. Molloy regarding mandatory use of ECF in compliance with Local Rule 5.4 as to Yohan A Germosen. Failure to comply may result in the imposition of sanctions. (Filo, Jennifer) (Entered: 01/06/2006)
01/06/2006	 <u>19</u>	SEALED JOINT MOTION to Seal as to Yohan A Germosen by Yohan A Germosen and USA. (Filo, Jennifer) (Entered: 01/09/2006)
01/06/2006	 <u>20</u>	SEALED JOINT MOTION as to Yohan A Germosen by Yohan A Germosen and USA. (Filo, Jennifer) (Entered: 01/09/2006)
01/17/2006		Judge Nancy Gertner: Electronic ORDER entered granting <u>19</u> Joint Motion to Seal as to Yohan A Germosen (1); granting <u>20</u> Joint Motion as to Yohan A Germosen (1). (Filo, Jennifer) (Entered: 01/19/2006)
03/10/2006	 <u>22</u>	MOTION to Modify Court Order as to Yohan A Germosen. (Filo, Jennifer) (Entered: 03/13/2006)
03/13/2006	 <u>21</u>	First MOTION for Downward Departure or <i>Offense-Level Adjustment</i> as to Yohan A Germosen. (Donahue, Sean) (Entered: 03/13/2006)
03/14/2006	 <u>23</u>	Assented to MOTION to Continue <i>Sentencing Hearing</i> as to Yohan A Germosen. (Donahue, Sean) (Entered: 03/14/2006)

03/15/2006	●	Judge Nancy Gertner : Electronic ORDER entered granting <u>23</u> Motion to Continue as to Yohan A Germosen (1) Sentencing reset to 4/25/2006 02:30 PM in Courtroom 2 before Judge Nancy Gertner. (Molloy, Maryellen) (Entered: 03/15/2006)
03/30/2006	●	ELECTRONIC NOTICE OF RESCHEDULING as to Yohan A Germosen. Sentencing RESET FROM 4/25/06 TO 5/23/2006 03:00 PM in Courtroom 2 before Judge Nancy Gertner. (Molloy, Maryellen) (Entered: 03/30/2006)
03/30/2006	● <u>24</u>	Assented to MOTION to Continue <i>Sentencing Hearing currently set for 5/23/06</i> as to Yohan A Germosen by USA. (Asiaf, Lisa) (Entered: 03/30/2006)
04/07/2006	●	Judge Nancy Gertner : Electronic ORDER entered Granting <u>24</u> Motion to Continue as to Yohan A Germosen (1) Sentencing RESET TO 6/12/2006 02:30 PM in Courtroom 2 before Judge Nancy Gertner. (Molloy, Maryellen) (Entered: 04/07/2006)
05/26/2006	● <u>25</u>	Supplemental MEMORANDUM in Support by Yohan A Germosen re <u>21</u> First MOTION for Downward Departure <i>or Offense-Level Adjustment</i> (Donahue, Sean) (Entered: 05/26/2006)
06/11/2006	● <u>26</u>	RESPONSE TO SENTENCING MEMORANDUM by USA as to Yohan A Germosen (Asiaf, Lisa) (Entered: 06/11/2006)
06/12/2006	●	ElectronicClerk's Notes for proceedings held before Judge Nancy Gertner :Hearing on sentencing issues as to Yohan A Germosen held on 6/12/2006. Sentencing RESET TO 6/30/2006 09:30 AM in Courtroom 2 before Judge Nancy Gertner. Parties shall submit briefs on or before 6/21/06, court adjourned.(Court Reporter O'Hara.) (Molloy, Maryellen) (Entered: 06/12/2006)
06/21/2006	● <u>27</u>	SENTENCING MEMORANDUM by USA as to Yohan A Germosen (Asiaf, Lisa) (Entered: 06/21/2006)
06/29/2006	● <u>28</u>	Second ADDENDUM to Motion/Memorandum by Yohan A Germosen re <u>21</u> First MOTION for Downward Departure <i>or Offense-Level Adjustment</i> (Donahue, Sean) (Entered: 06/29/2006)
06/30/2006	●	ElectronicClerk's Notes for proceedings held before Judge Nancy Gertner :(dft speaks english)Probation Officer D. Rivera...Sentencing held on 6/30/2006 for Yohan A Germosen (1), Dft sworn, Plea accepted, court departs to probation. Sentence imposed: 2 Years Probation, NO Fine, \$200 Spec Assessment, 6 Months Home Detention w/out electronic monitoring. Spec Cond of Prob: no firearm, community service (amt of time to be determined by probation) No Drug testing; No DNA Sampling; No Victim Impact; Judge to issue a decision on her findings, Jgm will not enter until decision is issued, court adjourned.; (Court Reporter O'Hara.) (Molloy, Maryellen) (Entered: 06/30/2006)



07/05/2006	<u>29</u>	MOTION to Release Bond Obligation <i>Secured by Property</i> as to Yohan A Germosen. (Donahue, Sean) (Entered: 07/05/2006)
07/10/2006		Judge Nancy Gertner: Electronic ORDER entered granting <u>29</u> Motion to Release Bond Obligation as to Yohan A Germosen (1) (Filo, Jennifer) (Entered: 07/11/2006)
08/01/2006	<u>30</u>	DISCHARGE OF MORTGAGE as to Yohan A Germosen for property located at 114 Essex Street, Lynn, MA. (Diskes, Sheila) (Entered: 08/02/2006)
08/04/2006	<u>31</u>	TRANSCRIPT of Change of Plea as to Yohan A Germosen held on November 7, 2005 before Judge Gertner. Court Reporter: Valerie A. O'Hara. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-2346 or the Clerk's Office. (Scalfani, Deborah) (Entered: 08/04/2006)
08/04/2006	<u>32</u>	TRANSCRIPT of Sentencing Hearing as to Yohan A Germosen held on June 12, 2006 before Judge Gertner. Court Reporter: Valerie A. O'Hara. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-2346 or the Clerk's Office. (Scalfani, Deborah) (Entered: 08/04/2006)
08/04/2006	<u>33</u>	TRANSCRIPT of Sentencing as to Yohan A Germosen held on June 30, 2006 before Judge Gertner. Court Reporter: Valerie A. O'Hara. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-2346 or the Clerk's Office. (Scalfani, Deborah) (Entered: 08/04/2006)
12/26/2006	<u>34</u>	MOTION for Order of Judgment in Criminal Case as to Yohan A Germosen by USA. (Asiaf, Lisa) (Entered: 12/26/2006)
01/18/2007	<u>35</u>	SENTENCING MEMORANDUM as to Yohan A Germosen entered. (Filo, Jennifer) (Entered: 01/19/2007)
01/19/2007	<u>36</u>	Judge Nancy Gertner : ORDER entered; JUDGMENT as to Yohan A Germosen (1). Sentence imposed: 2 Years Probation, \$200 Spec Assessment, 6 Months Home Detention w/out electronic monitoring. (Attachments: #(1) Transcript Excerpt of Sentencing Hearing #(2) Sentencing Memorandum) (Filo, Jennifer) (Entered: 01/19/2007)
02/09/2007	<u>37</u>	NOTICE OF APPEAL by USA as to Yohan A Germosen NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 3/1/2007. (Asiaf, Lisa) (Entered: 02/09/2007)